

**Statement of the
Acting Attorney General for the District of Columbia**

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Before the

**Committee on the Public Safety and the Judiciary
Phil Mendelson, Chairperson**

Confirmation Hearing



**Office of the Attorney General
District of Columbia**

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**Council Chamber
Room 500
John A. Wilson Building
1350 Pennsylvania Avenue, NW
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Good morning, CM Mendelson and members of the Committee. I first want to say how much appreciate the comments of the witnesses who have testified. I also want to start by telling you how honored and humble I feel to sit here today as the Acting Attorney General of the District of Columbia. I have been on the job for 2 and ½ months, and they've been among the most gratifying, challenging, and exciting of my career.

I have learned very quickly that the Office is full of smart, dedicated lawyers and support staff who work hard every day to carry out the office's mission. Their work touches the lives of everyone who lives and works in the District of Columbia. We protect the most vulnerable and disenfranchised District residents: abused and neglected children, victims of domestic violence, and people with disabilities. We vindicate the rights of consumers, homeowners and tenants. We help families secure the resources to make ends meet and keep their neighborhoods safe. We do the legal work on every major commercial transaction in the District, from baseball to neighborhood development, and defend the District in nearly 1,000 civil cases each year. We argue for the District in the appellate courts on key issues, including the gun case decided last week; and we review new legislation and rulemaking and provide advice to virtually all parts of our government.

Given that enormous mandate, we have a responsibility to do the very best work. I want the Office of the Attorney General to be an Office that does not, and will not, settle for less. Here in the nation's capital, we should have an Attorney General's Office that is a model for others; one that leads, not follows.

I am lucky, and the District was lucky, to have had Bob Spagnoletti as the District's first and previous Attorney General. He did excellent work over the last three years and a half years to step up the performance of the Office of Attorney General. He laid the foundation that lets us move from good to great in the years ahead.

There are three main issues I believe that we need to address: our human capital – which is the heart of OAG; our current cases – our role as lawyers to develop and respond to our cases – civil and criminal, affirmative and defensive, and our future cases – that is, what we can do as counselors to help reduce our exposure and to improve our services as a government.

First, our human capital. Making OAG a great office requires us to work hard to bring in the best talent we can get. It means investing in professional development, so that we can grow, train and keep our staff. It means making sure that we have the resources we need to do our job.

In one of my first actions as Acting Attorney General, I created a new Personnel, Labor and Employment Division to focus on recruitment and professional development. The Division will embrace two, connected corollaries: being unequivocally fair to each of our employees while demanding excellent work from every employee. Through that Division, we have created a new summer associate program and are revitalizing our honors program to attract young lawyers into the Office.

We are also building our pro bono program to get more help on our cases, improve our training, and enhance our recruitment. This certainly builds

upon my experience at Appleseed in understanding how to attract and deploy hundreds of law firm volunteers.

We also are creating a proactive professional development plan for both attorneys and support staff and plan to dramatically increase our investment in training. This will improve both our performance and retention. We plan to increase our support staff, so that we can ensure that attorneys spend more of their time lawyering and less time on administrative functions. Finally, we are working with the unions now on promotion policies that will recognize excellence and help create a more formal career path within the Office.

Part of that, too, is running more efficiently administratively. When I came in, there was a significant logjam of pending personnel actions and issues related to purchase orders. Staff had spent weeks or months trying to get their paycheck fixed or get approval to attend a conference or buy a book. Under the direction of our new Chief Administrative Officer, we are working aggressively to correct these problems and to make sure that our systems are accurate and efficient going forward.

Turning to the programmatic side, I have an even more ambitious vision for OAG.

OAG will be an Office that effectively enforces our criminal laws, vigorously prosecuting appropriate cases and diverting cases where we can, providing services to keep offenders from coming back into the system. Both approaches are critically important to public safety. That's nowhere more true than in the juvenile system, where we have to make sure that our

response is swift, proportionate, and geared to rehabilitate children, so that we break the cycle of arrest and incarceration.

One of the first things I did when I came into Office was to work with our Public Safety Division to convene the Mayor's Safe Schools Initiative. This initiative represents the best of what we can do -- combining law enforcement strategies to protect children from violence and creating community-based partnerships to keep kids from being drawn into trouble in the first place.

In that vein, I also want to see us play a more active role in the truancy system. OAG has received on average 100 referrals per year from DCPS, even though we know that there are individual schools where a substantial proportion of their kids are truant. This is an early warning signal - a chance to intervene in kids' lives before they end up in the delinquency system. We have an opportunity to engage these kids and their families and deliver services before they end up in the delinquency system—and we, as a government and a community, must seize this opportunity.

OAG will be an Office that aggressively enforces the District's consumer, housing, and environmental laws, too. Again, in one of my first steps at OAG, I created the Public Advocacy Division to carry out that role. Within that Division, we are enhancing or developing initiatives on nuisance properties, lead paint, predatory lending, and the Anacostia River, among others. Down the road, I would also like to see this Division move into more work on health care and labor and wage law enforcement. This kind of visible enforcement activity will not only allow us to do more for the

residents of the District of Columbia, but will enhance the reputation of the Office, helping both morale and recruitment.

OAG will be an Office that better defends the District in the civil litigation brought against it. This means paying real attention to risk management, seeing the forest among the trees of our thousands of individual cases to identify and address the most significant sources of liability. This will allow us to both bring down our exposure and help agencies better deliver their services. It also means triaging our cases to facilitate early settlement of appropriate cases -- again, limiting our exposure to large judgments and attorneys fees down the road, and freeing up our resources to focus on the most serious, complex, and defensible cases.

I want to pause for a minute to discuss the big, institutional cases in which the Office of Attorney General represents the District. These are the suits involving the provision of services to special education students, people with disabilities, foster children, and children and adults in the correction systems. Here we have a special obligation. First, an obligation as advocates, to make sure that we vigorously defend the District, avoiding large damage awards and often decades-long receiverships and other court interventions that constrain our ability to manage programs and budgets and draw resources away from the delivery of services. Second, we have an obligation as counselors, to help our social services agencies identify and address weaknesses so that we can stay out of court and provide the services on which our most vulnerable residents depend. We have taken a very proactive role in working with agencies to stay on top of the requirements of these cases and, where new issues, like American with Disabilities (ADA) compliance, emerge, to address them quickly.

OAG will be an Office that moves efficiently, responsively, and creatively on commercial matters. First, we need to ensure that OAG's lawyers are involved at critical points throughout key deals so that we can address issues as we go, and not on the eve of a closing or deadline. We also need to enhance a client-focused orientation where, within the bounds of the law, we recognize that our job is to help get the job done, and that if one road is closed, we are finding a new route. Our Legal Counsel Division is working, as well, with the same approach to legislative and rule-making issues.

Finally, one of my goals is to make OAG truly one office. With the consolidation of agency counsel into OAG, we have the opportunity to create, in fact and not just in structure, one legal service. I want to build an Office which taps the front line perspectives of agency lawyers, informed and supported by the specialized expertise of our commercial, criminal, and civil lawyers. I also want to help build an Office that truly integrates our divisions and our staff.

I've talked about where I'd like to take the Office, and now want to turn to what I bring to that enterprise.

First, I bring a passion for justice and a recognition of the power of law as an instrument of positive change. I always asked people I interviewed for jobs what makes their blood boil, because I wanted to find staff with the fire to right wrongs. I bring great zeal, impatience, and energy to that task.

I also care deeply about people, those with whom I work and those who I serve. I am the first member of my family to go to law school and my parents hoped, when I entered Harvard Law School, that they would finally

have someone to support them in the manner to which they wanted to become accustomed. A colleague reported her parents saying, “For this you went to Harvard.” But, seriously, my belief that the law can help society as a whole – and not just my parents -- is, in fact, exactly why I went to Harvard.

I've spent my career as an advocate for the disenfranchised. First, as a legal aid lawyer in New York City, I represented indigent defendants in criminal court. I took that job because I believe that poor people deserve the same justice as those with means. Perhaps as the youngest of four children, I've always had a soft spot for the underdog. It was both a great and very hard job. It was a turnstile system. A system in which my clients one day were victims the next. A system in which always had more cases than we could do justice to. I'll never forget standing in court one day with a stack of 100 files when a client asked what was going on with his case, a serious felony, and had to ask him to remind me of his name. It was not what our clients deserved and it was not how I wanted to practice law.

After I left the Legal Aid Society, I moved to the District to become the first full time staff member and eventually the Executive Director of Appleseed, which works in the District and across the county to mobilize lawyers to address systemic issues at the state and local levels. I was the first staff person hired by Appleseed in 1994. When I left, at the end of 2006, with the help of a committed board and talented, energetic staff, I had developed Appleseed into one of the country's most well respected public interest legal organizations – referred to by American Lawyer as pro bono law's new frontier. Appleseed now has a staff of roughly 70 people across 16 states and Mexico. We have touched almost every issue of importance: public

education, immigration, criminal justice, child welfare, disaster relief, and health care. In particular, I played a leadership role in our work to improve our response to Disasters and to make sure that the survivors of Hurricane Katrina were helped back on their feet; to connect immigrants with financial services that help them build assets; to provide affordable health care to small businesses and their low wage workers; and to make sure that parents can use federal law and school performance data to be real advocates and decision-makers for their children, improving the outcomes for their children - and all kids - in our public schools.

Perhaps most importantly, at Appleseed, I specialized in organizational development. What I did, at the core, was build organizations that do high quality work and that make a difference. I learned how to recruit, develop and manage hundreds of lawyers and others, how to develop and implement a strategic vision, and how to solve problems and get things done. I learned how to come into a new place or area of the law, figure out what I needed to know and take action. I also learned how to lead and to knit together a very diverse organization that spanned a wide range of issues and personalities.

That's particularly important because there's no one who could come into OAG who would have subject matter expertise in all of the areas of law we work on. The Office's footprint is too big and diverse. What's needed is someone who can develop and manage a top-notch staff who specialize in the various areas of law in which we work, and who understands how to pull all that together, how to listen and to lead, and when and how to step in. That is what I have been doing for the last 13 years and I can't think of better preparation for the job of Attorney General.

Appleseed also gave me a national perspective on local issues. As different as the states where we worked -- from Nebraska, to Texas, from Washington State, to Washington, DC -- the issues are remarkably similar, focusing on access to education, to opportunity, and to justice. These are the universal themes in this country and the District of Columbia. I learned a lot about what works and, perhaps as important, what doesn't. This perspective better prepares me to address the needs of our city.

Though I think my work over the last 16 years has helped prepare me to serve as the District's Attorney General, there is no substitute for on the job training. I have spent much of the last two and a half months getting to know the Office, meeting with all of the staff in small groups to learn about their frustrations and aspirations. I have established an internal transition team, drawn from across the Office, to help me plan for the future. A number of them went with me to visit the NY Attorney General's Office and the NY City's Office of Corporation Counsel to learn from their best practices. We hope to visit another set of offices in the next few months. Though I've made some personnel changes, much of the top leadership, including the indispensable Gene Adams, the Principal Deputy Attorney General, remain in place and I have benefited greatly from their experience.

In addition, I have had a chance to get a few things done. I have discussed several of OAG's recent initiatives already, but, in addition, we have:

- Settled the lawsuit filed by David Rosenbaum's family on terms that are very favorable to the District and, critically important, likely to produce positive changes in the District's provision of emergency medical services

- Reenergized our collaboration with MPD and DCRA to address nuisance properties, which blight neighborhoods and provide havens for crime.
- Begun work with the DC Superior Court and MPD to provide victims of domestic violence with access to temporary protective orders at night and on weekends, when court is not in session, recognizing that domestic violence does not respect a 9 to 5 court day.
- We have had a number of litigation victories, including two significant court decisions which upheld Council legislation – Decatur Liquors, which upheld the Council’s ban on the single beer sales, and in the suit brought against the District by the Pharmaceutical Care Management Association. Plaintiffs in that case are attempting to litigate the validity of Title II of the AccessRx Act of 2004. On Tuesday of this week, the U.S. District Court granted our motion to vacate the preliminary injunction and for summary judgment.
- Reviewed our first set of civil cases to identify cases that deserve to be settled.
- Launched a new debit card, which allows us to give custodial parents immediate access to their child support, and also helps parents save more by avoiding expensive check cashing fees.
- Added a new position to represent clients served by the newly reorganized Department of Disability Services. Our goal, in line with the proactive risk management approach I’ve discussed, is to make sure the rights of these adults with disabilities are protected and to resolve issues and identify problems that have been at issue in the Evans class action.

- Moved the Mental Health Section to St. Elizabeths, where our attorneys can work more closely with the program staff to ensure appropriate resolutions for patients.
- Worked with Council Member Mendelson to develop legislation to address teen dating violence, which we thank you for championing.
- Developed rules to implement a \$3.2 million dollar grant to the DC Bar Foundation to implement the poverty lawyer loan assistance and grant programs.
- Did the planning work to launch a partnership with Peter Edelman and Georgetown Law Center to offer a new course that will allow students to participate in a legal clinic at OAG on issues including predatory lending, healthcare regulation and payday loans.
- Begun our new pro bono program.

It is a special privilege for me to serve in this position. I've been a District resident for 14 years, and I care deeply about our community. One of the first projects I took on at Appleseed was opening our office here in town. I had the chance to travel the District and to get to know the legal community and civic leaders, from John Payton to John Hechinger. One of the first calls I made was to Terry Lynch. And Terry told me if I really wanted to know DC I had to meet Joe Sternlieb. I did and soon after, I married him. He has been an incredible source of knowledge, humor, inspiration, and support. One of my great claims to fame is bringing home a law review article on DC voting rights written by two friends, Jamie Raskin and John Bonifaz. I never finished it, but Joe did, and it was the inspiration for DC Vote, which he founded with Daniel Solomon and which has made such an important contribution to democracy in the District.

Joe and I have two kids in the DC Public Schools, which is one of the biggest investments one can make in the District. I have worked as a member of their school's Local School Restructuring Team and with other parents to make sure that we have a school system worthy of all of our children.

On that note, I will bring my testimony to a close. As a parent, you have many moments that test your patience and your confidence. But you also have those that make you feel that you've gotten it right. When my daughter joined the Girl Scouts this year she had to learn the Girl Scout pledge, including a vow under some higher authority, which the girls choose. She thought about it and said that she wanted to swear "under justice."

I am proud that we have instilled those values in her, and they are the same values that I bring to the job every day. My pledge is to continuously focus the Office of Attorney General and its terrific staff to serve justice and all of the residents of the District of Columbia.